



University of Baltimore Law Forum

Volume 22
Number 1 *Summer, 1991*

Article 10

1991

Recent Developments: Harmelin v. Michigan: Mandatory Sentence of Life without Parole Does Not Violate Eighth Amendment

Ellen Poris

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>



Part of the [Law Commons](#)

Recommended Citation

Poris, Ellen (1991) "Recent Developments: Harmelin v. Michigan: Mandatory Sentence of Life without Parole Does Not Violate Eighth Amendment," *University of Baltimore Law Forum*: Vol. 22 : No. 1 , Article 10.
Available at: <http://scholarworks.law.ubalt.edu/lf/vol22/iss1/10>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

(1) the collection and assembly of pre-existing material, facts, or data; (2) the selection, coordination, and arrangement of those materials; and (3) the creation, by virtue of the particular selection, coordination, or arrangement, of an "original" work of authorship. *Id.*

The Court noted that the first and third elements were self-explanatory. The key issue was found in the second element: "whether the selection, coordination, and arrangement are sufficiently original to merit protection." *Id.* at 1294. The Court noted that the language, "in such a way," suggested that some compilations would be copyrightable while others would not. *Id.* Relying on precedent, the Court justified that every clause and word of a statute should be given effect. *Id.* (citing *Moskal v. United States*, 111 S. Ct. 1032 (1991)).

The Court held that alphabetizing surnames for white pages did not satisfy the minimum constitutional standards for copyright protection and was "devoid of even the slightest trace of creativity." *Id.* at 1296. The selection of surnames, the Court found, was obvious and "lacks the modicum of creativity necessary to transform mere selection into copyrightable expression." *Id.* Moreover, Rural did not "select" to publish the surnames in its directory, but was required by state statute to publish the names and telephone numbers of its subscribers. *Id.* at 1296-97. Lastly, the Court noted that alphabetizing by surname was "an age-old practice, firmly rooted in tradition and so commonplace that it has come to be expected as a matter of course." *Id.* at 1297.

The Supreme Court's holding in *Feist* allows publishers of white page

listings to pilfer from their competitors simply because the surnames were alphabetized, thereby lacking originality. Although *Feist* and Rural made their profit exclusively from yellow page advertisements, many other directories exist where the publishers profit solely from the directories themselves. Knowing that a rival may simply reproduce and profit from one's compilation may result in publishers engaging in other forms of publication which are less vulnerable to piracy by competitors.

- Kimberly A. Doyle

***Harmelin v. Michigan*: MANDATORY SENTENCE OF LIFE WITHOUT PAROLE DOES NOT VIOLATE EIGHTH AMENDMENT.**

In the plurality opinion of *Harmelin v. Michigan*, 111 S. Ct. 2680 (1991), the United States Supreme Court held that a mandatory sentence of life in prison without the possibility of parole did not violate the Eighth Amendment's proscription against cruel and unusual punishment. In its analysis, the Court reviewed the history of the Eighth Amendment in order to determine whether a mandatory sentence could be imposed without considering mitigating factors. The Court refused to extend the so-called "individualized capital-sentencing doctrine" to cases other than those imposing the death penalty.

Ronald Harmelin was convicted of possessing 672 grams of cocaine. Although Harmelin had no prior convictions, he received a mandatory sentence of life in prison without the possibility of parole pursuant to Michigan law. The Michigan Court of Appeals reversed Harmelin's conviction on the grounds that evidence in support of the conviction was obtained in violation of Michigan's Constitution.

On petition for rehearing, however, the court of appeals vacated its reversal and affirmed Harmelin's sentence. The Michigan Supreme Court denied leave to appeal, and the United States Supreme Court granted certiorari.

Harmelin set forth two reasons that his sentence was unconstitutional as a violation of the Eighth Amendment's prohibition against cruel and unusual punishment. First, Harmelin contended that the sentence was unconstitutional because the punishment was significantly disproportionate to the crime committed. *Id.* Second, Harmelin argued that the sentence violated the Eighth Amendment because it was mandatory, and therefore, precluded the trial judge from considering any particular circumstance of the crime and the criminal. Specifically, Harmelin contended that it was cruel and unusual to impose such a severe, mandatory sentence as life imprisonment without considering mitigating factors.

To begin its analysis, a plurality of the court held that "[s]evere, mandatory penalties may be cruel, but they are not unusual in the constitutional sense" The Court noted that our nation's history has long provided examples of mandatory penalties, including death sentences. *Id.* The Court reasoned, therefore, that a sentence which was not otherwise cruel and unusual did not become such simply because it was mandatory. *Id.*

The Court then considered whether the Eighth Amendment required an individualized sentencing determination that the punishment imposed be appropriate to the crime committed. *Id.* The Court noted that such an individualized sentencing determination was, in fact, applicable in capital cases, and imposition of the death penalty without

this individualized sentencing determination was cruel and unusual under the Eighth Amendment. *Id.* The Court refused, however, to extend this individualized sentencing determination beyond capital cases. *Id.* at 2702.

The Court reasoned that the death penalty "differs from all other forms of criminal punishment, not in degree, but in kind. It is unique in its total irrevocability." *Id.* (quoting *Furman v. Georgia*, 408 U.S. 238, 306 (1972)). The Court explained that even with a sentence of life without possibility of parole, there still existed possibilities of executive clemency and legislative reduction of sentences to take effect retroactively. *Harmelin*, 111 S. Ct. at 2702. The Court further noted that the following sentences could produce only negligible differences: life with parole eligibility in twenty years, long-term sentences without eligibility of parole for a 65-year-old man, and a life sentence without parole. *Id.* The Court reasoned that regardless of the difference, no sentence could be compared with death, and, thus, the Court refused to expand individualized sentencing beyond capital cases. The Court held, therefore, that a mandatory sentence of life in prison without the possibility of parole did not violate the Eighth Amendment's prohibition of cruel and unusual punishment.

In a strong dissent, Justice White asserted that while the Eighth Amendment contained no specific language as to a proportionality requirement, it did forbid excessive fines. *Id.* at 2709. (White, J., dissenting). Justice White noted that it would not be unreasonable to find that excessiveness should be measured according to the crime committed, concluding that imposing any punishment disproportionate to the crime committed would be a

violation of the Eighth Amendment's cruel and unusual punishment clause. *Id.* Justice White reasoned that "[t]he death penalty is appropriate in some cases and not in others. The same should be true of punishment by imprisonment." *Id.* at 2712.

In a plurality opinion, the Supreme Court found that a mandatory sentence did not automatically become cruel and unusual by virtue of its mandatory nature. The Court distinguished capital cases, where an individualized sentencing determination is mandatory, from all other forms of punishment, where such a determination is not required. Thus, the Court refused to extend the individualized capital sentencing doctrine beyond death penalty cases. In so doing, the Court gave great latitude to state legislatures for determination of reasonable punishments while usurping a sentencing judge's ability to consider any mitigating factors the defendant may wish to present.

- Ellen Poris

***Pacific Mutual Life Insurance Company v. Haslip*: MASSIVE PUNITIVE DAMAGES AWARD INTENDED TO PUNISH AND DETER WRONGDOERS IN CIVIL SUIT DID NOT VIOLATE THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT.**

In *Pacific Mutual Life Insurance Co. v. Haslip*, 111 S. Ct. 1032 (1991), the United States Supreme Court held that a \$1,040,000.00 punitive damages award, which was more than four times the amount of compensatory damages claimed, did not violate the Due Process Clause of the Fourteenth Amendment. After circumventing the issue in the past, the Court finally addressed the issue

of whether due process acts as a check on undue jury discretion to award punitive damages in the absence of any express statutory limit.

Lemmie L. Ruffin, Jr. was a licensed agent for both Pacific Mutual Life Insurance Company (Pacific Mutual) and Union Fidelity Life Insurance Company (Union). After selling an insurance package to the respondents, both employees of an Alabama municipality, Ruffin misappropriated premiums paid to him by respondents' employer for payment to Union. This caused respondent's health insurance to lapse without their knowledge.

In May 1982, respondents filed an action in state court claiming fraud by Ruffin and seeking to hold Pacific Mutual liable under a theory of respondeat superior. Following the trial court's charge on liability, the jury was instructed that if it determined there was liability for fraud, it could award punitive damages. The jury was further instructed that the purpose of punitive damages was not to compensate the plaintiff, but rather to punish the defendant and deter him from doing such wrong in the future.

Included among the damages was a verdict for Respondent Haslip of over one million dollars. This sum included a punitive damages award more than four times the amount of compensatory damages claimed. The Supreme Court of Alabama affirmed the trial court and specifically upheld the punitive damages award. The United States Supreme Court granted certiorari to review Pacific Mutual's claim that the punitive damage award was the product of unbridled jury discretion and violative of its due process rights.

The Court first addressed the constitutionality of the punitive damages and outlined the common-law approach for assessing them. Under